

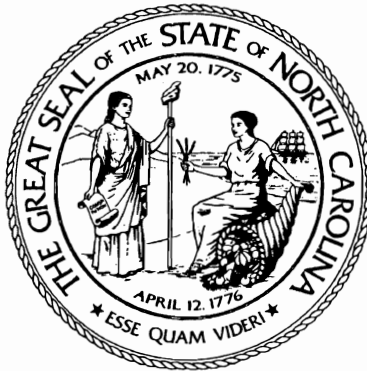
LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

Assessment Report

For

**ANESTHESIOLOGIST
ASSISTANTS**

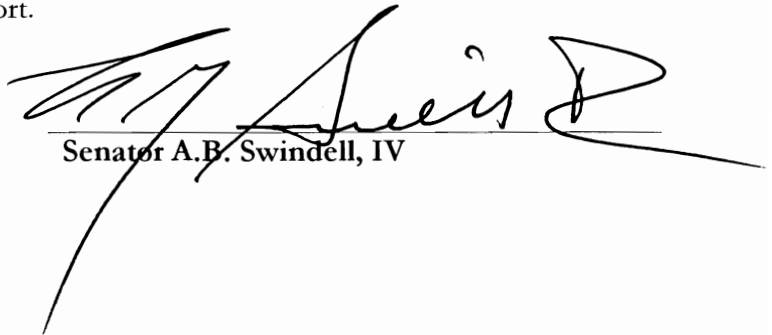
House Bill 1492



LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

April 25, 2007

The Legislative Committee on New Licensing Boards is pleased to release this assessment report on the certification of anesthesiologist assistants. This report constitutes both the preliminary and final assessment report.



Senator A.B. Swindell, IV

**LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS
(2007-2008)**

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Ms. Cindy Avrette, Committee Counsel

Ms. Karen Cochrane-Brown, Committee Counsel

Ms. Judy Collier, Research Assistant

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PREFACE

The Legislative Committee on New Licensing Boards is a 9-member joint committee of the House and Senate created and governed by Article 18A of Chapter 120 of the General Statutes. A copy of the statutes governing the Committee is attached to this report. The primary purpose of the Committee is to evaluate the need for a new licensing board or the proposed licensing of previously unregulated practitioners by an existing board. The Committee has been in existence since 1985.

The Committee solicits written and oral testimony on each licensing proposal in carrying out its duty to determine whether the proposal meets the following criteria:

- 1) Whether the unregulated practice of the profession can substantially endanger the public health, safety, or welfare, and whether the potential for such harm is recognizable and not remote or dependent upon tenuous argument.
- 2) Whether the profession possesses qualities that distinguish it from ordinary labor.
- 3) Whether practice of the profession requires specialized skill or training.
- 4) Whether a substantial majority of the public has the knowledge or experience to evaluate the practitioner's competence.
- 5) Whether the public can effectively be protected by other means.
- 6) Whether licensure would have a substantial adverse economic impact upon consumers of the practitioner's good or services.

The Committee issues an assessment report on its findings and recommendations. The recommendation in the report is not binding on other committees considering the proposal.

Federal law recognizes AAs as qualified providers eligible for reimbursement from Medicare and Medicaid. Liability insurers rate AAs and nurse anesthetists as the same level of risk. Nine states as well as the District of Columbia license AAs to provide anesthesia services under the supervision of a licensed anesthesiologist:

ALABAMA
FLORIDA
GEORGIA
KENTUCKY
MISSOURI
NEW MEXICO
OHIO
SOUTH CAROLINA
VERMONT

LICENSE REQUIREMENTS

Who Must Be Licensed. A person desiring to provide anesthesia services as an anesthesiologist assistant will need to be licensed by the North Carolina Medical Board (Board). The licensing requirements proposed in House Bill 1492 will apply to all AAs practicing in North Carolina. There are no exemptions from the licensure requirement. House Bill 1492 is attached to this report.

Initial Licensure Requirements. Every applicant for licensure as an anesthesiologist assistant in the State must meet the following criteria:

- Satisfy the Board that the applicant is of good moral character.
- Complete a graduate level training program accredited by the CAAHEP.
- Successfully pass a certification examination administered by the NCCAA and be currently certified as an AA by the NCCAA.
- Meet any other qualifications for the issuance of a license as determined by the Board.

LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

SPECIFIC FINDINGS REGARDING ANESTHESIOLOGIST ASSISTANTS HOUSE BILL 1492

Findings. The Legislative Committee on New Licensing Boards finds that the sponsors have met the six criteria by which the Committee judges licensure proposals. Specifically, the Committee finds that:

- 1) The unregulated practice of anesthesiologist assistants can substantially harm or endanger the public health, safety, or welfare since anesthesiologist assistants, as members of an Anesthesia Care Team, are directly involved in the delivery of anesthesia care services.
- 2) The profession possesses qualities that distinguish it from ordinary labor since professional education and training includes a four-year pre-med degree and completion of a comprehensive didactic and clinical program at the graduate school level.
- 3) The practice of anesthesiologist assistants requires specialized skill or training.
- 4) A substantial majority of the public does not have the knowledge or experience to evaluate the competence of an anesthesiologist assistant.
- 5) The public cannot be effectively protected by other means.
- 6) Licensure would not have a substantial adverse economic impact upon the recipient of the anesthesiologist assistant's services.

ATTACHMENT

Article 18A of Chapter 120 of the NC General Statutes

ARTICLE 18A.

REVIEW OF PROPOSALS TO LICENSE NEW OCCUPATIONS AND PROFESSIONS.

§ 120-149.1. Findings and purpose.

The General Assembly finds that the number of licensed occupations and professions has substantially increased and that licensing boards have occasionally been established without a determination that the police power of the State is reasonably exercised by the establishment of such licensing boards.

The General Assembly further finds that by establishing criteria and procedures for reviewing proposed licensing boards, it will be better able to evaluate the need for new licensing boards. To this end, it is the purpose of this Article to assure that no new licensing board shall be established unless the following criteria are met:

- (1) The unregulated practice of the profession or occupation can substantially harm or endanger the public health, safety or welfare, and the potential for such harm is recognizable and not remote or dependent upon tenuous argument;
- (2) The profession or occupation possesses qualities that distinguish it from ordinary labor;
- (3) Practice of the profession or occupation requires specialized skill or training;
- (4) A substantial majority of the public does not have the knowledge or experience to evaluate whether the practitioner is competent; and
- (5) The public is not effectively protected by other means; and
- (6) Licensure will not have a substantial adverse economic impact upon consumers of the practitioner's goods or services. (1987, c. 180.)

§ 120-149.2. Definitions.

As used in this Article:

- (1) "Assessment report" means a report that initially describes the need for and the fiscal impact of a new licensing board.
- (2) "Committee" means the Legislative Committee on New Licensing Boards.

(b) If the proposal to establish a new licensing board is first contained in a legislative proposal, the sponsor shall present a copy of the legislative proposal to the Legislative Committee on New Licensing Boards which shall prepare an assessment report. If the proposal is not in the form of a legislative proposal, the person or organization seeking to establish a new licensing board may obtain an assessment report from the Committee only if a legislator requests such a report.

(c) If a legislative proposal receives a favorable report but does not become law during the biennial session in which it is introduced, a new assessment report shall be required before the same or a substantially similar legislative proposal may be considered after first reading or by any committee during a subsequent biennial session of the General Assembly. If a proposal receives a favorable report but is not introduced as a legislative proposal, the favorable report shall expire at the adjournment of the biennial session coinciding with or following issuance of the final report.

(d) A preliminary assessment report shall be prepared and returned to the sponsor or requesting legislator as soon as possible and not later than 60 days after the Committee receives the request, provided that if the volume of requests makes preparation of all such reports impossible within that time, the Committee may extend the time for preparation of any report to a maximum of 90 days from the time the request is received. The Committee shall not consider any request until it has received the information required by G.S. 120-149.4(a).

(e) If an amendment or committee substitute to a legislative proposal is introduced, the appropriate committee chairman, the presiding officer of the appropriate house, or the sponsor of the proposal may request a supplementary report when, in the opinion of any of them, the amendment or committee substitute substantially alters the legislative proposal. The supplementary report shall be prepared and returned to the requesting individual, and to the sponsor, within 30 days after the Committee receives the request.

(f) Each assessment report shall be designated as either preliminary, final, or supplementary and shall not constitute any part of the expression of legislative intent proposed by the formation of a new licensing board. An unfavorable final report shall not bar further consideration of the proposal on the floor or by any committee of either house.

- (10) Any other information the Committee considers relevant to the proposed regulatory plan. The Committee shall adopt an appropriate form for use by applicants. The form shall contain a list of questions to be completed by the person or organization requesting the assessment report and a copy of this Article.

(b) In preparing an assessment report with respect to a legislative proposal to establish a new licensing board, the Committee shall consider, but shall not be limited to considering, the factors listed in subsection (a). The report shall analyze the effects of the new licensing board and shall include the Committee's recommendation on whether the General Assembly should approve the new licensing board. The Committee shall make specific findings in its report on each of the following:

- (1) Whether the unregulated practice of the profession or occupation can substantially harm or endanger the public health, safety, or welfare, and whether the potential for such harm is recognizable and not remote or dependent upon tenuous argument;
- (2) Whether the profession or occupation possesses qualities that distinguish it from ordinary labor;
- (3) Whether practice of the profession or occupation requires specialized skill or training;
- (4) Whether a substantial majority of the public has the knowledge or experience to evaluate the practitioner's competence;
- (5) Whether the public can be effectively protected by other means; and
- (6) Whether licensure would have a substantial adverse economic impact upon consumers of the practitioner's goods or services.

(c) The Committee may also evaluate the legislative proposal itself in terms of its clarity, conciseness, conformity with existing statutes and general principles of administrative law, and specificity of the delegation of authority to promulgate rules and set fees.

(d) The Committee shall furnish a copy of the preliminary assessment report to the requesting legislator or sponsor at least seven days prior to the Committee's final meeting on the proposal, unless the sponsor or requesting legislator waives this requirement. The requesting legislator or sponsor shall have an opportunity at the final meeting to respond to the preliminary report.

(c) The Committee may meet on days when the members of the General Assembly are entitled to subsistence pursuant to G.S. 120-3.1. The Committee is authorized to use the facilities of the State Legislative Building and Legislative Office Building. Clerical and professional staff shall be provided by the Legislative Services Commission. (1987, c. 180; 1991, c. 739, s. 16.)

ATTACHMENT

House Bill 1492:

*AN ACT AUTHORIZING THE
LICENSURE OF
ANESTHESIOLOGIST ASSISTANTS*

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 1492

Short Title: Anesthesiologist Assistants Licensure. (Public)

Sponsors: Representatives England, J. Harrell (Primary Sponsors); Blackwood, Carney, Current, Dollar, Goforth, Grady, Hilton, Howard, Justus, Lewis, McComas, McGee, Neumann, Tarleton, Tillis, and Wilkins.

Referred to: Health, if favorable, Finance.

April 17, 2007

A BILL TO BE ENTITLED
AN ACT AUTHORIZING THE LICENSURE OF ANESTHESIOLOGIST
ASSISTANTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-11 is amended by adding a new subsection to read:

"(a1) Every applicant for licensure as an anesthesiologist assistant in the State shall meet the following criteria:

(1) Satisfy the North Carolina Medical Board that the applicant is of good moral character.

(2) Submit to the Board proof of completion of a graduate level training program accredited by the Commission of Accreditation of Allied Health Education Programs or its successor organization.

(3) Submit to the Board proof of current certification from the National Commission of Certification of Anesthesiologist Assistants (NCCAA) or its successor organization, including passage of a certification examination administered by the NCCAA. The applicant shall take the certification exam within 12 months after completing training.

(4) Meet any additional qualifications for licensure pursuant to rules adopted by the Board."

SECTION 2. G.S. 90-15 reads as rewritten:

"§ 90-15. License fee; salaries, fees, and expenses of Board.

Each applicant for a license by examination shall pay to the North Carolina Medical Board a fee which shall be prescribed by the Board in an amount not exceeding the sum of four hundred dollars (\$400.00) plus the cost of test materials before being admitted to the examination. Whenever a license is granted without examination, as authorized in G.S. 90-13, the applicant shall pay to the Board a fee in an amount to be prescribed by the Board not in excess of two hundred fifty dollars (\$250.00). Whenever a limited

1 (b) Anesthesiologist assistants are authorized to provide anesthesia services
2 under the supervision of an anesthesiologist licensed under Article 1 of this Chapter
3 under the following conditions:

4 (1) The North Carolina Medical Board has adopted regulations governing
5 the provision of anesthesia services by an anesthesiologist assistant
6 consistent with the requirements of subsection (c) of this section.

7 (2) The anesthesiologist assistant holds a current license issued by the
8 Board or is a student anesthesiologist assistant participating in a
9 training program leading to certification by the National Commission
10 for Certification of Anesthesiologist Assistants and licensure as an
11 anesthesiologist assistant under G.S. 90-11(a1).

12 (c) The North Carolina Medical Board shall adopt rules to implement this section
13 that include requirements and limitations on the provision of anesthesia services by an
14 anesthesiologist assistant as determined by the Board to be in the best interests of
15 patient health and safety. Rules adopted by the Board pursuant to this section shall
16 include the following requirements:

17 (1) That an anesthesiologist assistant be supervised by an anesthesiologist
18 licensed under Article 1 of this Chapter who is actively engaged in
19 clinical practice and immediately available on-site to provide
20 assistance to the anesthesiologist assistant. One anesthesiologist may
21 supervise no more than two licensed anesthesiologist assistants at one
22 time. However, the limitation shall in no way restrict the number of
23 other qualified anesthesia service providers an anesthesiologist may
24 concurrently supervise.

25 (2) That no more than two student anesthesiologist assistants be
26 supervised by one anesthesiologist at one time. However, the
27 limitation shall in no way restrict the number of other qualified
28 anesthesia providers an anesthesiologist may concurrently supervise.

29 (3) That anesthesiologist assistants comply with all continuing education
30 requirements and recertification requirements of the National
31 Commission for Certification of Anesthesiologist Assistants or its
32 successor organization.

33 After January 1, 2010, the Board may, by rule, allow an anesthesiologist to supervise up
34 to four licensed anesthesiologist assistants concurrently and revise the supervision
35 limitations of student anesthesiologist assistants such that the supervision requirements
36 for student anesthesiologist assistants are similar to the supervision requirements for
37 student nurse anesthetists."

38 **SECTION 5.** This act is effective when it becomes law.
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ATTACHMENT

Response to Questionnaire for the Legislative Committee on New Licensing Boards

LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

LICENSURE OF ANESTHESIOLOGIST ASSISTANTS

- 1. In what ways has the marketplace failed to regulate adequately the profession or occupation?**

North Carolina is suffering from an acute shortage of nurse anesthetists. Ensuring a sufficient supply of mid-level anesthesia providers is critical to meeting the growing demand for surgical services in this State. Authorizing the North Carolina Medical Board to license anesthesiologist assistants (“AAs”) will help alleviate this shortage of mid-level anesthesia providers.

AAs have a thirty-year track record of providing safe anesthesia care as part of the anesthesia care team under the supervision of an anesthesiologist. Several neighboring states license AAs, including Georgia, South Carolina and Florida. The North Carolina General Assembly has not yet authorized the licensure of AAs, therefore no AAs currently practice in this State. However, several AAs currently reside in North Carolina and are required to travel to other states (Georgia and South Carolina) to practice their profession. The licensure of AAs will allow these well-trained health care providers to stay in North Carolina and help fill the critical need for additional mid-level anesthesia providers.

- 2. Have there been any complaints about the unregulated profession or occupation? *Please give specific examples including (unless confidentiality must be maintained) complainants' names and addresses.***

This question is not applicable because the lack of licensure has prevented AAs from practicing in North Carolina. The North Carolina Medical Board has opined that it cannot authorize the delegation of anesthesia duties by a physician to an AA unless the General Assembly first authorizes the licensure of AAs.

- 3. In what ways has the public health, safety, or welfare sustained harm or is in imminent danger of harm because of the lack of state regulation? *Please give specific examples.***

As North Carolina’s population ages, there is a correlated increase in the demand for surgical services. The acute shortage of mid-level anesthesia providers in North Carolina threatens patient access to the anesthesia care needed for such surgeries. If this shortage is not addressed, access to surgical care will suffer.

6. What will be the economic advantage of licensing to the public?

The licensure of AAs will benefit the public by increasing the supply of qualified mid-level anesthesia providers in North Carolina. This will benefit patient access to anesthesia services and potentially reduce the rate of growth of anesthesia costs.

7. What will be the economic disadvantage of licensing to the public?

The licensure of AAs will result in no economic disadvantage to the public because AAs are not currently practicing in North Carolina. Instead, it will benefit the public through increased access and choice. The licensure of AAs will not result in any increased costs to the public because AAs are not currently providing services here.

8. What will be the economic advantages of licensing to the practitioners?

Licensure will benefit AAs by giving them the opportunity to practice their profession in North Carolina. It will especially benefit the AAs currently living in North Carolina who are forced to commute to Georgia and South Carolina to work.

9. What will be the economic disadvantages of licensing to the practitioners?

None. See answer to #7.

10. Please give other potential benefits to the public of licensing that outweigh the potential harmful effects of licensure such as a decrease in the availability of practitioners and higher cost to the public.

Unlike proposed licensing legislation affecting existing professions and occupations in North Carolina, the licensure of AAs will neither decrease the availability of practitioners nor increase costs to the public. Instead, it will improve patient access to anesthesia care and potentially slow the rate of growth of anesthesia costs.

11. Please detail the specific specialized skills or training that distinguish the occupation or profession from ordinary labor.

Anesthesiologist assistants (AAs) are highly skilled allied health professionals who work under the direction of licensed anesthesiologists to develop and implement anesthesia care plans. All AAs possess a premedical background, a baccalaureate degree, and also complete a comprehensive didactic and clinical program at the graduate school level. AAs are trained extensively in the delivery and maintenance of quality anesthesia care as well as advanced patient monitoring techniques. The goal

- 14. What is the approximate number of persons who will be regulated and the number of persons who are likely to utilize the services of the occupation or profession?**

The number of AAs who will be licensed is dependent on the number of AAs who desire to practice in North Carolina. There are more than 700 AAs currently practicing across the country. The three current AA educational programs will graduate approximately 70 AAs annually. Several additional AA schools are “on the drawing board” and will increase the number of AA graduates when operable.

Surgical patients in North Carolina hospitals and ambulatory surgical centers are likely to utilize the services of AAs.

- 15. What kind of knowledge or experience does the public need to evaluate the services offered by the practitioner?**

A medical background. AAs will work under the supervision of anesthesiologists and are therefore unlikely to be hired directly by members of the public.

- 16. Does the occupational group have an established code of ethics, a voluntary certification program, or other measures to ensure a minimum quality of service?**

The National Commission for Certification of Anesthesiologist Assistants (NCCAA) was founded in July 1989 to develop and administer the certification process for AAs in the United States. Graduates or senior students in an AA educational program that has been accredited by the CAAHEP may apply for initial certification. Initial certification is awarded to an AA who has successfully completed the Certifying Examination for Anesthesiologist Assistants administered by NCCAA in collaboration with the National Board of Medical Examiners (NBME). Certified AAs are permitted to use the designation AA-C to indicate that they are currently certified.

The content for the Certifying Examination for Anesthesiologist Assistants is based on knowledge and skills required for practice, as determined from surveys of AAs and their physician sponsors conducted in 1990 and again in 1997. NCCAA has contracted with NBME to serve as a consultant for the development and ongoing administration of the Certifying Examination. A Test Committee is responsible for writing and evaluating test questions for the examinations as well as for an item bank containing material that will be used in future years. The first Certifying Examination was administered in 1992.

The NCCAA annually publishes a list of Anesthesiologist Assistants-Certified (AA-Cs). This public document is made available to state boards of medicine and other bodies responsible for credentialing health care professionals.

